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21 Attorneys for Defendant  
22 DAVID TRUNG DUONG

23 UNITED STATES DISTRICT COURT  
24 NORTHERN DISTRICT OF CALIFORNIA  
25 OAKLAND DIVISION

26 UNITED STATES OF AMERICA,

27 Plaintiff,

28 v.

SHENG THAO, ANDRE JONES, DAVID  
TRUNG DUONG, and ANDY HUNG  
DUONG,

Defendants.

Case No. 4:25-CR-00003-YGR

**DECLARATION OF NEAL J.  
STEPHENS IN SUPPORT OF  
DEFENDANT DAVID DUONG'S  
NOTICE OF MOTION AND  
MOTION TO MODIFY FILTER  
TEAM PROTOCOL**

Hearing Date: April 24, 2025  
Hearing Time: 10:30 a.m.  
Judge: Hon. Yvonne Gonzalez Rogers  
Courtroom: 1, 4<sup>th</sup> Floor

1 I submit this Declaration in support of Defendant David Duong's Notice of Motion and  
2 Motion to Modify Filter Team Protocol. I am over 21 years of age and am competent to testify to  
3 the following facts and opinions, all of which are true and correct to the best of my knowledge,  
4 information, and belief.

5 1. In discovery in this matter, the government confirmed that it seized a number of  
6 electronic devices from Mr. Duong's residence, including his cell phones, iPads, laptop  
7 computers, desktop computers, and various data storage devices. At CWS, the government  
8 imaged the network servers and seized numerous cell phones, iPads, computers and storage  
9 devices. At VABA, the government imaged laptops, cellphones, and storage devices. On  
10 February 21, 2025, the government requested that counsel for Mr. Duong supply the government  
11 with two hard drives to obtain a portion of the discovery that the government is producing to  
12 defense counsel—one hard drive capable of storing 1 terabyte of data and another hard drive  
13 capable of storing 15 terabytes of data. The first thumb drive we received from the government  
14 contained 45GB's of compressed data, which amounted to approximately 165,000 pages of  
15 material. Based on these numbers, one terabyte of data would equate to approximately 3,666,666  
16 million pages of discovery and 15 terabytes of data would equate to approximately 54,999,990  
17 pages of discovery.

18 2. On February 4, 2025, I entered a notice of appearance in this matter to represent Mr.  
19 David Duong. On February 5, 2025, I sent an email to the government related to discovery.  
20 Regarding filter team issues, I asked the government to provide a copy of any filter team protocol  
21 and asked the government to confirm that defense counsel would have the ability to review any  
22 material the filter team intended to promote to the prosecution team before the filter team sent the  
23 material to the prosecution team. Exhibit A at 11.

24 3. The government indicated that it would discuss my questions with me after I reviewed  
25 discovery that they intended to produce the following day, February 6, at the first status  
26 conference on this matter, Ex. A at 9. On February 21, 2025, I contacted the government again  
27 and renewed my request. Ex. A at 8. In response, the government indicated that it would send a  
28 letter in the near future outlining its filter process. The government also confirmed that it did not

1 obtain judicial approval of its filter team protocol. Ex. A at 5, 7.

2 4. On February 25, 2025, I renewed my request trying to determine if any written filter  
3 team protocol existed because it had been twenty days since my initial request and the  
4 government had not provided any written protocol or any description of its protocol. Ex. A at 5-  
5 6.

6 5. On February 28, 2025, the government sent defense counsel a letter describing its  
7 protocol, but did not send a copy of the actual protocol. Exhibit B. The government's description  
8 of its protocol confirmed that the filter team had the power to promote certain documents to the  
9 prosecution team without defense counsel having any opportunity to object and seek judicial  
10 review. Ex. B at 3. For example, the government stated that "the filter team was instructed to  
11 segregate any other material containing any of the search terms, and the remainder of the  
12 materials (whatever did not hit on the search terms) were sent to the prosecution team." *Id.* In  
13 addition, the filter team reviewed the search term hits and "if the material was clearly not  
14 privileged, the filter team was instructed to send that material to the prosecution team." *Id.*

15 6. On March 3, 2025, I sent a response to the government's description of its protocol and  
16 requested that the government adopt a few guardrails to their protocol. I again renewed my  
17 request for a copy of the protocol so defense counsel could ascertain if the written protocol was  
18 actually in place when the government seized privileged materials on June 20, 2024. Ex. A at 1-  
19 3.

20 7. On March 10, 2025, the government sent a letter response to my suggested  
21 improvements to their filter team protocol. Exhibit C. The government did not provide a copy—  
22 or a redacted copy—of the protocol because it claimed that the memorandum containing the  
23 protocol is "both work product and sensitive" because the memo also contained information  
24 related to the government's investigation. *Id.* at 3. The government also rejected my suggestion  
25 to allow defense counsel to review all privilege decisions made by the filter team so defense  
26 counsel could raise appropriate objections with the Court. *Id.* at 1-2. Instead, the government  
27  
28

1 stated that “we plan to continue with the filter process set forth in that letter [the Feb 28 letter].”

2 I declare under penalty of perjury that the foregoing is true and correct.

3 Executed on March 19, 2025 at Palo Alto, California.

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6 Neal J. Stephens  
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**CERTIFICATE OF SERVICE**

I, Trudy Carney, declare:

I am a citizen of the United States and employed in Santa Clara County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is Silicon Valley Office, 1755 Embarcadero Road, Palo Alto, California 94303. On March 19, 2025, I served a copy of Neal J. Stephens Declaration in Support of Defendant David Duong's Notice of Motion and Motion to Modify Filter Team Protocol by electronic transmission.

I am familiar with the USDC Northern District's practice for collecting and processing electronic filings. Under that practice, documents are electronically filed with the court. The court's CM/ECF system will generate a Notice of Electronic Filing (NEF) to the filing party, the assigned judge, and any registered users in the case. The NEF will constitute service of the document. Registration as a CM/ECF user constitutes consent to electronic service through the court's transmission facilities.

Executed on March 19, 2025, Palo Alto, California.

  
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Trudy Carney

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